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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,894	05/16/2002	Ralf Duckeck	10191/2142	6195
26646	7590	08/17/2006	EXAMINER	
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			NGUYEN, CUONG H	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/019,894

Applicant(s)

DUCKECK, RALF

Examiner

CUONG H. NGUYEN

Art Unit

3661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 5/05/06 (the amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***DETAILED ACTION***

1. This Office Action is the answer to the communication received on 5/05/2006, which paper has been placed of record in the file.
2. Claims 1-5 were canceled; claims 6-16 are pending in this application (new claims 15-16 are added on 5/05/06).

***Acknowledgment***

3. 2 sheets of drawings (3 Figs.) are objected because these drawings are vague and unclear; they should show what the improvement of the invention against prior versions.
4. A claim of foreign priority Germany 100 21 171.2 (4/29/2000) was submitted on 12/28/2001.

**Response**

5. The current examiner respectfully submits that independent claims 6, 8, 9, and 10 are BROAD claims; since they do not disclose any improvement from prior inventions of vehicle navigation systems – please note that the examiner can not find that “delta function” is a term of art that explains specifically what the applicant claims. The previous rationales and rejections are still applied herein – again, that specific function does not change the claimed steps.

A. Claim 6 merely discloses 2 steps: inputting a route, and receiving “partial” information from a remote station (although claimed information are about “particular” information, they are non-functional descriptive material that do not change above 2 steps (“delta” information are claimed; however, this is another “different information”).

B. Claim 8 merely comprises 2 steps:

- a. transmitting information from a server to a vehicle;

- b. distributing information (alternative routes).
- C. Claim 9 is directed to a system, merely comprises 2 steps:
  - a. “determining arrangement” to determine a route – this is vague and indefinite;
  - b. a transmitting arrangement (to transmit “delta” information/a portion of information)
- D. Claim 10 is considered a method claim (although it is about a computer program) merely comprises 2 steps:
  - a. transmitting information from a server to a vehicle;
  - b. distributing information (alternative routes).

Applicant's arguments have been fully considered but they are not persuasive.

Applicant argues that Drury does not teach "transmit only delta information representing required necessary deviation from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system." Please remember that in claim 6, “delta information” are merely “specific” information; where these information DO NOT AFFECT the claimed steps. Applicant argues that Drury does not teach "only delta information representing required necessary deviation from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system. The interpretation is that Drury suggests a planned route where the vehicle based on “certain” information (such as delta information) has changed to a different route (off route – a deviation), which is a section of the route transmitted from the control center to the vehicle navigation unit (see Drury, para. [0179]-[0180]).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

**6. Claims 6-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drury (2004/0066330).**

A. As per claims 6, 8, and 10: According to above interpretation of claimed language Drury teaches about transmitting “certain” information (non-functional descriptive material) from a control center to an on-board vehicle navigation system in vehicle to prevent a traffic problem; distributing the motor vehicle traffic flow among a plurality of detour segments in a controlled manner when there is a traffic problem and a plurality of feasible detour routes are available (see Drury, Fig.18, para. [0179]-[0180]).

Drury does not disclose that alternate routes were calculated and transmitted from a remote server (such as a control center).

However, the examiner submits that (see Drury, Figs.19, 20C) Drury also teaches that missing point can be a two-way communication between a server 125 and an IN-VEHICLE SYSTEM 105 – e.g., a NAVIGATION APPLICATION 512/SERVER SYSTEM 125 can transmit calculated/alternative routes to IN-VEHICLE SYSTEM 105.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to explicitly disclose in Drury et al.'s reference that alternate routes were calculated and transmitted from a control center for the advantage of using powerful calculation means and a big database from the server that can not be available with the same capacity with an ON-BOARD COMPUTER to obtain an accurate and quick result.

B. As per claim 9, Drury also teaches about "a system having specific arrangements" to determining a route in the on-board vehicle navigation system in a vehicle; transmitting information from a control center to the vehicle information system for use in providing optimized route planning, wherein only delta information representing required necessary deviations from a previously determined route for driving an alternative section of the route is transmitted from the control center to the vehicle navigation system (the "delta" information in these "arrangements" do not effect the physical structures of those arrangements - see Drury, para. [0179]-[0180], and Fig. 1).

C. As per claim 7, Drury also teaches about transmitting a current vehicle position, a destination, and related information to a server (see Drury, Figs. 1-3, 5, 22 and 24).

D. As per claims 11, and 12: The rationales and reference for a rejection of claim 6 are incorporated.

According to an interpretation of claimed language, "delta"/"different" information includes alternative routes.

The examiner respectfully submits that although claimed information are about "delta"/"particular"/"different" information, they are merely non-functional descriptive material that do not change claimed steps of inputting a route, and receiving "partial"

information from a remote station (“delta” information are claimed; however, this is another “different information”. Claim 12 further define that “the detour route is a tertiary route” – this is another information.

E. As per claims 13, and 14: The rationales and reference for a rejection of claim 9 are incorporated.

Claim 13 further defines that “delta” information includes a “specific” information. (The phrase “required for driving on a detour route from the previously determined route” is an intended use for that claimed system – this phrase is considered not a limitation – please note that the recitation of a new “intended use” for an old product does not make a claim to the old product patentable. See *In re Schreiber* above. The reference only needs to be inherently “capable” of performing the new intended use.

The examiner respectfully submits that, Drury’s navigation system meets this claim because it clearly uses specific information from a remote server.

In addition, a detour route is a tertiary route is well defined such as a tertiary route: a route is produced by “mixing” two secondary routes.

Claims 11-14 are directed to “specific” information; the current examiner respectfully submits that these further limitations merely are non-functional descriptive material - and are not functionally involved in the steps/”means” recited. The “information” collecting/transmitting/distributing steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

- Claims 15-16 only perform a step ONLY IF the traffic problem exist; the examiner assumes that in this case, a traffic problem NOT EXIST – these claims are rejected on obviousness because of that logic.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to implement Drury et al.'s reference to collect/receive/distribute any type of data having any type of content because such data/information do not functionally relate to the steps/"means" in the method/system claimed and because the subjective interpretation of the information does not patentably distinguish the claimed invention.

### ***Conclusion***

7. Claims 6-16 are not patentable; accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant(s) are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-

272-6759. The examiner can normally be reached on 9:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 571-272-6956. The Rightfax number for the organization where this application is assigned is 571-273-6759.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.



CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3661